

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. BANK NATIONAL ASSOCIATION, solely in its capacity as Trustee for the registered holders of Morgan Stanley Capital I Inc., Commercial Mortgage Pass-Through Certificates, Series 2012-C5, acting by and through Rialto Capital Advisors, LLC as Special Servicer,

Plaintiff,
-against-

767 8TH AVE LLC, SHERMAN MANAGEMENT LLC, JOGINDER Y. SHARMA, NEW YORK CITY DEPARTMENT OF FINANCE, NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, & JOHN DOES 1 THROUGH 10,

Defendants.

ORDER

21 Civ. 4913 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

Plaintiff U.S. Bank National Association has moved to appoint a receiver in this action to foreclose on a mortgage for a loan secured by real property in Manhattan. (Dkt. No. 5)

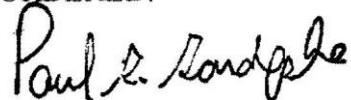
In support of Plaintiff's motion, Nicholas Powell, a vice president at Rialto Capital Advisors, LLC, submitted two declarations in support of Plaintiff's application. (Dkt. Nos. 8, 24) Defendant Joginder Sharma submitted a declaration in opposition to the motion. (Dkt. No. 19) Because several key facts are in dispute, the Court will conduct an evidentiary hearing with respect to Plaintiff's motion. That hearing – previously scheduled for July 16, 2021 – will take place on **July 20, 2021, at 3:00 p.m., in Courtroom 705 of the Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York, New York.**

At the hearing, Powell and Sharma should be prepared to testify concerning (1) the current status of the hotel and its bookings, including whether it is fully reopened and, if not,

when it is expected to fully reopen; (2) whether guest reservations were diverted to the nearby Paul Hotel; (3) the status of the water damage to the hotel and related repairs; (4) the status of the franchise license with Choice Hotels, including any notice of default under the license agreement and any communications with the licensor suggesting that the hotel may be in jeopardy of losing its license; (5) Defendants' ability to establish a Restricted Account per the terms of the Restricted Account Agreement; (6) the status of year-end financial report disclosures; (7) the "bring-current" amount; and (8) the use of the Collateral Reserve.

Dated: New York, New York
July 19, 2021

SO ORDERED.



Paul G. Gardephe
United States District Judge